



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/156170

PRELIMINARY RECITALS

Pursuant to a petition filed March 20, 2014, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on May 15, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request for orthodontia services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney Patricia DeLessio
230 West Wells Street, Room 800
Milwaukee, WI 53203

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lucy Miller

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 13 year old resident of Milwaukee County.
2. A request was submitted on behalf of the Petitioner for orthodontia services. On November 29, 2013, the agency denied the request.

3. The agency reviewed the case and again denied the services on December 27, 2013.
4. Petitioner submitted a grievance to the agency on January 13, 2014. On February 13, 2014, the agency affirmed its denial of orthodontia services.
5. The Petitioner's Salzmann score is 28.
6. On March 20, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Orthodontia is not an MA-covered service. Wis. Admin. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). The service can be approved if the generic authorization criteria at §DHS 107.02(3) are met. Those criteria include the requirement of medical necessity. The DHCAA has defined medical necessity in its policy document, the Prior Authorization Guidelines Manual, page 125.004.03. The Manual requires a Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping.

The Salzmann score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmann score is 28. Extenuating circumstances could be that, despite a low Salzmann, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion.

According to the evidence presented by the Petitioner's provider and her mother at hearing, the Petitioner has chronic ulcers in her mouth due to biting her cheeks and tongue when she eats. She experiences jaw and mouth pain on a daily basis which has resulted in a change in her eating habits. She takes Ibuprofen as needed for the pain. The providers document that the pain and ulcers will increase without appropriate orthodontic services.

The agency representative was unsure if the dental consultant considered the providers' documentation of the problems experienced by the Petitioner.

Based on the evidence presented, I conclude that there are extenuating circumstances present that allow for approval of orthodontia services for the Petitioner.

CONCLUSIONS OF LAW

The Petitioner meets the criteria for approval of orthodontia services.

THEREFORE, it is

ORDERED

That the Petitioner's orthodontist, is authorized to provide the orthodontia discussed in this decision. To receive reimbursement the provider must submit a claim, along with a copy of this decision and a new prior authorization form to Forward Health for payment.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 8th day of July, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 8, 2014.

Division of Health Care Access and Accountability
Attorney Patricia DeLessio